



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-0243]

RIN 1625-AA09

Drawbridge Operation Regulation; Lafourche Bayou, Larose, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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**SUMMARY:** The Coast Guard is modifying its drawbridge operation regulations by replacing the reference to the SR 310 (Larose Pontoon) Bridge with the LA 657 (Larose) Vertical Lift Bridge. The SR 310 bridge has been taken out of service and has been replaced by the LA 657 bridge. This substitution will also permit the LA 657 bridge to operate under the same schedule as the five other bridges in this area, as opposed to its current open-on-demand schedule.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG-2013-0243]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket

Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Kay Wade, Bridge Branch Office, Coast Guard; telephone 504-671-2128, e-mail Kay.B.Wade@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

#### A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to

the public interest." Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Providing an opportunity for comment regarding this rule is unnecessary because this rule does not impose any new operational restrictions on the waterway. It merely changes the bridge to which these restrictions apply. Providing an opportunity for comment regarding this rule is impracticable because the SR 310 bridge no longer exists and traffic from this bridge has been diverted to the new LA 657 bridge.

The SR 310 (Larose Pontoon) Bridge was removed from the waterway in April 2013 and replaced by the new LA 657 (Larose) Vertical Lift Bridge, which is located approximately one-half mile away from the old bridge. The old SR 310 bridge was one in a series of six bridges that feed the local school system, and operated in accordance with the requirements of 33 CFR 117.465(a). The operating requirements for the old SR 310 bridge are specifically located at 33 CFR 117.465(a)(6).

The new LA 657 bridge is located less than one-half mile from the old SR 310 bridge, and essentially replaces the SR 310 bridge in this series. However, the new LA 657 bridge currently operates under the default operating requirements of 33 CFR 117.5, which require that the bridge

open on signal. This default operating requirement conflicts with the operating requirements of the other five bridges in this area. Therefore, this rule will essentially replace the SR 310 bridge with the LA 657 bridge at 33 CFR 117.465(a)(6), thus allowing the new bridge to operate under the same requirements as the old bridge, and under the same requirements as the other five bridges in this area.

#### B. Basis and Purpose

The purpose of this rule is to modify paragraph (a)(6) of 33 CFR 117.465. This paragraph currently refers to the SR 310 (Larose Pontoon) Bridge across Lafourche Bayou at mile 39.1. This bridge has been replaced by the newly constructed LA 657 (Larose) Vertical Lift Bridge across Lafourche Bayou at mile 38.7.

The LA 657 Bridge is the first bridge south of the Gulf Intracoastal Waterway intersection. This bridge is located just south of a flood control structure that has a horizontal clearance of 56 feet and a depth over the sill of 10 feet. Navigation at the site of the bridge consists primarily of tugs with tows, fish, shrimp, crew, and pleasure boats. There is considerable commerce on the bayou in seafood products, sugar, petroleum products, cement, lumber and piles, clays and drilling mud, liquid sulfur, sand and gravel, oil well pipe, machinery and supplies, caustic soda, chemicals and general cargo. The bridge opens

an average of 400 times a month for vessels or approximately 14 times daily. Traffic counts indicate that 9,000 vehicles cross the bridge daily and approximately 23% of those vehicles cross during the requested closure times.

Currently, the LA 657 Bridge opens on signal according to the default rule in 33 CFR 117.5. The Louisiana Department of Transportation and Development has requested that the LA 657 Bridge be allowed to follow the same drawbridge operation regulation that applied to the pontoon bridge before it was removed. This change would permit the LA 657 bridge to open on signal, except that, from August 1 through May 31, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 7 a.m. to 8:30 a.m.; from 2 p.m. to 4 p.m. and from 4:30 p.m. to 5:30 p.m. Placing the LA 657 Bridge on the same operating schedule with the other five bridges in the area will help minimize any disruption to both waterway and land transportation due to school vehicular traffic.

#### C. Discussion of Final Rule

The Coast Guard will modify the regulation in 33 CFR 117.465 (a)(6) by changing the name and mile mark of the bridge in that section from the SR 310 (Larose Pontoon) Bridge, mile 39.1, at Larose, to the LA 657 (Larose) Vertical Lift Bridge, mile 38.7, at Larose. All other operational requirements and restriction in that section

remain unchanged and are adopted by the new bridge.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The new LA 657 vertical lift bridge across Lafourche Bayou at mile 38.7 in Larose replaced the old SR 310 pontoon bridge across Lafourche Bayou at mile 39.1 in Larose. The pontoon bridge, which has been removed, was governed by 33 CFR 117.465(a)(6). This rule merely substitutes the LA 657 bridge for the SR 310 bridge at that section of the CFR and does not impose any new restrictions or limitations on the waterway.

##### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C.

601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities

This rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the bridge from August 1 through May 31, yearly, between 7 a.m. to 8:30 a.m., 2 p.m. to 4 p.m., and 4:30 p.m. to 5:30 p.m. on weekdays. This action will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule does not impose any new restrictions on the waterway. The LA 657, which is less than one-half mile from the old SR 310 bridge would now operate under the same schedule as the old SR 310 bridge. Additionally, there are five other bridges in this area that operate under the same schedule, therefore mariners in the area are accustomed to this schedule. Vessels that can safely transit under the bridge may do so at any time. Before the effective period,

we will issue maritime advisories widely available to users of the bayou.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

## 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

## 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will

not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian

tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a

categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Section 117.465(a)(6) is revised to read as follows:

§ 117.465 Lafourche Bayou.

(a) \* \* \*

(6) LA 657 (Larose) Vertical Lift Bridge, mile 38.7, at Larose.

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Dated: August 25, 2013

Kevin S. Cook  
Rear Admiral, U.S. Coast Guard  
Commander, Eighth Coast Guard District

[FR Doc. 2013-22269 Filed 09/12/2013 at 8:45 am; Publication  
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